

1 A.J. Kung, Esq.  
Nevada Bar No. 7052  
2 Georlen K. Spangler, Esq.  
Nevada Bar No. 3818  
3 **KUNG & BROWN**  
214 South Maryland Parkway  
4 Las Vegas, Nevada 89101  
(702) 382-0883 Telephone  
5 (702) 382-2720 Facsimile  
E-Mail: [ajkung@ajkunglaw.com](mailto:ajkung@ajkunglaw.com)  
6 [gspangler@ajkunglaw.com](mailto:gspangler@ajkunglaw.com)  
Attorneys for Capriati  
7 Construction Corp. Inc.

8 **UNITED STATES BANKRUPTCY COURT**  
9 **DISTRICT OF NEVADA**

10 \* \* \*

11 In re:

12 CAPRIATI CONSTRUCTION CORP. INC.

13 Debtor.

CASE NO.: BK-15-15722-abl

Chapter 11

14  
15  
16 **AMENDED - APPLICATION FOR ORDER SHORTENING TIME FOR HEARING**  
17 **ON MOTION FOR RECONSIDERATION**

18 Capriati Construction Corp. Inc., the Debtor and the Debtor in possession ("Debtor") in  
19 the above-referenced bankruptcy case, by and through her counsel of record, the law firm of  
20 Kung & Brown, hereby submits this Application For Order Shortening Time For Hearing on  
21 Debtor's Motion for Reconsideration (the "Motion"). This Application is made and based  
22 upon the attached points and authorities, the Declaration of A.J. Kung, Esq. (the "Kung  
23 Declaration") in support hereof, and the pleadings and papers on file herein.  
24

25 ...

26 ...

27 ...  
28 ...

1 WHEREFORE, Debtor, respectfully requests that this Honorable Court hear its  
2 Application For Order Shortening Time For Hearing on Debtor's Motion for Reconsideration,  
3 and grant Debtors request for an expedited hearing on or before June 29, 2017, or such other  
4 and further relief as may be just and proper.  
5

6 DATED this 23<sup>rd</sup> day of June, 2017.  
7

8 KUNG & BROWN

9 By: 

10 A.J. Kung, Esq.

11 Nevada Bar No. 7052

12 Georlen K. Spangler, Esq.

13 Nevada Bar No. 3818

14 214 South Maryland Parkway

15 Las Vegas, Nevada 89101

16 *Attorneys for Capriati*

17 *Construction Corp. Inc.*  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

KUNG & BROWN

214 South Maryland Parkway

Las Vegas, Nevada 89101

Tel: (702) 382-0883 / Fax: (702) 382-2720

## I.

## POINTS AND AUTHORITIES

Debtor, by and through its attorneys, the law firm of Kung and Brown, hereby submits this Application For Order Shortening Time For Hearing on Debtor's Motion for Reconsideration (the "Motion").

This Application is based upon the Kung Declaration in support hereof affixed to this Application as Exhibit of "A" and incorporated by reference herein.

This request for shortened time results from the fact that the deadline to appeal the Court's Order [ECF No. 894] entered on June 16, 2017, **expires on June 30, 2017** (14 days from the entry of the Order).

The proposed order shortening time will not adversely impact any party's ability to respond to the Motion, since the parties have had notice of the Motion as described above. Further, the proposed shortening of time will still allow for compliance with Rule 4001 (d) of the Federal Rules of Bankruptcy Procedure (the "Rules"), which provides that objections, if any, to the Motion may be filed and served on the Debtor within the time fixed by the Court. Fed.R.Bankr.P. 4001(d)(2).

**The Relief is Authorized by Rule 9006 and Meets Due Process Requirements.**

Federal Rules of Bankruptcy Procedure 9006 (c)(1) and (d) authorize a court to reduce the time for a hearing, and a party to file an ex parte motion to shorten the time for a hearing.

Rule 9006 (c)(1) provides in relevant part:

- (1) In General. Except as provided in paragraph (2) of this subdivision, when an act is required or allowed to be done at or within a specified time by these rules or by a notice given thereunder or by order of court, the court for cause shown may in its discretion with or without motion or notice order the period reduced.

1 Fed.R.Bankr.P. 9006 (c)(1).

2 Courts have generally acknowledged that such expedited relief does not violate due  
3 process rights, even if the motion to shorten time is made ex parte. Rule 9006(c)(1) (emphasis  
4 added). “Bankruptcy Rule 9006(c) permits the bankruptcy court ‘for cause shown’ in its  
5 discretion, with or without motion or notice, to reduce the notice period, and ex parte motions for  
6 material reductions in the notice period are routinely granted by bankruptcy courts.” Hester v.  
7 NCNB Texas Nat’l Bank (In re Hester), 899 F.2d 361, 364 n. 3 (5<sup>th</sup> Cir.1990); see also 9 Collier  
8 on Bankruptcy 9006.07 (Lawrence P. King. Ed., 15<sup>th</sup> ed. 1995). See, e.g. In re Gledhill, 76 F.3d  
9 1070 (10<sup>th</sup> Cir. [Utah] 1996).

11 The Court’s decision to reduce the notice period under Rule 9006 is essential in order for  
12 the Debtor to operate his businesses and manage his properties.

13 Debtor’s Counsel has consulted the noticed parties for purposes of the Order Shortening  
14 Time as indicated on the Attorneys Information Sheet, filed concurrently herewith, and  
15 incorporated herein by reference.  
16  
17

18 ...

19 ...

20 ...

21 ...

22 ...

23 ...

24 ...

25 ...



II.

CONCLUSION

Debtor respectfully requests that the Court entertain this matter on an order shortening time so that the Debtor can seek reconsideration from this Court prior to, or in lieu of, appealing the order to the Bankruptcy Appellate Panel or Federal District Court.

DATED this 23<sup>rd</sup> day of June, 2017.

KUNG & BROWN

By: 

A.J. Kung, Esq.  
Nevada Bar No. 7052  
Georlen K. Spangler, Esq.  
Nevada Bar No. 3818  
214 South Maryland Parkway  
Las Vegas, Nevada 89101  
*Attorneys for Capriati  
Construction Corp. Inc.*

KUNG & BROWN

214 South Maryland Parkway

Las Vegas, Nevada 89101


Tel: (702) 382-0883 / Fax: (702) 382-2720

**EXHIBIT "A"**

**DECLARATION AFFIRMING REQUESTED RELIEF**

I, A.J. Kung, Esq., declare under penalty of perjury that I am competent to make this declaration under the laws of the United States and the State of Nevada; that I have read the above Ex Parte Application to Shorten Time and that the facts stated therein are true and correct.

DATED this 23<sup>rd</sup> day of June, 2017.

  
A.J. Kung, Esq.

**KUNG & BROWN**  
214 South Maryland Parkway  
Las Vegas, Nevada 89101  
Tel: (702) 382-0883 / Fax: (702) 382-2720